



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

October 16, 2012

BY E-MAIL

Sabrina Shroff, Esq.
Federal Defenders of New York
52 Duane Street, 10th Floor
New York, New York 10007

Re: **United States v. Manssor Arbabsiar**
S1 11 Cr. 897 (JFK)

Dear Ms. Shroff:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Manssor Arbabsiar ("the defendant") to Counts One, Two, and Three of the above-referenced Superseding Information (the "Information").

Count One of the Information charges the defendant with traveling in foreign commerce and using interstate and foreign commerce facilities in the commission of murder-for-hire, from at least in or about the spring of 2011, up to and including on or about September 29, 2011, in violation of Title 18, United States Code, Section 1958. Count One carries a maximum term of imprisonment of ten years; a maximum fine of the greatest of \$250,000 or twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant as a result of the offense; a \$100 special assessment; and a maximum term of three years' supervised release.

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② Count Two of the Information charges the defendant with conspiring to travel in foreign commerce and to use or cause another to use interstate and foreign commerce facilities in the commission of murder-for-hire, from at least in or about the spring of 2011, up to and including on or about September 29, 2011, in violation of Title 18, United States Codes, Section 1958. Count ~~one~~ ^{two} carries a maximum term of imprisonment of ten years; a maximum fine of the greatest of \$250,000 or twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant as a result of the offense; a \$100 special assessment; and a maximum term of three years' supervised release.

Count Three of the Information charges the defendant with conspiring to commit an offense against the United States, namely, an act of terrorism transcending national boundaries,

in violation of Title 18, United States Code, Section 2332b, in violation of Title 18, United States Code, Section 371, from at least in or about the spring of 2011, up to and including on or about September 29, 2011. Count Three carries a maximum term of imprisonment of five years; a maximum fine, pursuant to Title 18, United States Code, Section 3571 of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense; a \$100 special assessment; and a maximum term of three years' supervised release.

The total maximum term of imprisonment on Counts One through Three is twenty-five years.

In consideration of the defendant's plea to the above offense, the defendant will not be further prosecuted criminally by this Office (except for criminal tax violations as to which this Office cannot, and does not, make any agreement) for: (i) his participation in a conspiracy to murder a foreign official, from at least in or about the spring of 2011, up to and including September 29, 2011, in violation of Title 18, United States Code, Section 1117, as charged in Count One of Indictment 11 Cr. 897 (JFK); (ii) engaging in foreign travel and using interstate and foreign commerce facilities in the commission of murder-for-hire, from at least in or about the spring of 2011, up to and including September 29, 2011, in violation of Title 18, United States Code, Section 1958, as charged in Count Two of Indictment 11 Cr. 897 (JFK); (iii) his participation in a conspiracy to engage in foreign travel and the use of interstate and foreign commerce facilities in the commission of murder-for-hire, from at least in or about the spring of 2011, up to and including September 29, 2011, in violation of Title 18, United States Code, Section 1958, as charged in Count Three of Indictment 11 Cr. 897 (JFK); (iv) his participation in a conspiracy to use a weapon of mass destruction, from at least in or about the spring of 2011, up to and including September 29, 2011, in violation of Title 18, United States Code, Section 2332a, as charged in Count Four of Indictment 11 Cr. 897 (JFK); and (v) his participation in a conspiracy to commit an act of terrorism transcending national boundaries, from at least in or about the spring of 2011, up to and including September 29, 2011, in violation of Title 18, United States Code, Section 2332b, as charged in Count Five of Indictment 11 Cr. 897 (JFK); it being understood that this agreement does not bar the use of such conduct as a predicate act or as the basis for a sentencing enhancement in a subsequent prosecution including, but not limited to, a prosecution pursuant to 18 U.S.C. §§ 1961 *et seq.* In addition, at the time of sentencing, the Government will move to dismiss any open Counts against the defendant. The defendant agrees that with respect to any and all dismissed charges he is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

The defendant hereby admits the forfeiture allegation with respect to Counts One and Two of the Information and agrees to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the

offenses. It is further understood that any forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon him in addition to forfeiture.

In consideration of the foregoing and pursuant to United States Sentencing Guidelines ("U.S.S.G." or "Guidelines") Section 6B1.4, the parties hereby stipulate to the following:

A. Offense Level

1. Pursuant to U.S.S.G. § 3D1.2(b), Counts One, Two and Three are grouped together into a single group because the counts involve the same victim and two or more acts or transactions are connected by a common criminal objective.
2. Pursuant to U.S.S.G. § 3D1.3(a), the offense level applicable to the group is the offense level for the most serious of the counts comprising the group.

Count One – Murder-For-Hire

3. Pursuant to U.S.S.G. § 2E1.4(a)(2), the applicable base offense level is 33 because U.S.S.G. § 2A1.5 provides the base offense level applicable to the underlying criminal conduct; *i.e.*, conspiracy or solicitation to commit murder.
4. Pursuant to U.S.S.G. § 2A1.5(b)(1), the offense level is increased by 4 levels because the offense involved the offer or receipt of something of pecuniary value for undertaking the murder.
5. Pursuant to U.S.S.G. § 3A1.4, because the offense is a felony that involved, or was intended to promote, a federal crime of terrorism, the offense level is increased by 12 levels.
6. In accordance with the above analysis, the applicable Guidelines offense level for Count One is 49.

Count Two – Conspiracy to Commit Murder-For-Hire

7. Pursuant to U.S.S.G. § 2E1.4(a)(2), the applicable base offense level is 33 because U.S.S.G. § 2A1.5 provides the base offense level applicable to the underlying criminal conduct; *i.e.*, conspiracy or solicitation to commit murder.
8. Pursuant to U.S.S.G. § 2A1.5(b)(1), the offense level is increased by 4 levels because the offense involved the offer or receipt of something of pecuniary value for undertaking the murder.

9. Pursuant to U.S.S.G. § 3A1.4, because the offense is a felony that involved, or was intended to promote, a federal crime of terrorism, the offense level is increased by 12 levels.
10. In accordance with the above analysis, the applicable Guidelines offense level for Count Two is 49.

Count Three – Conspiracy to Commit an Offense Against the United States

11. Pursuant to U.S.S.G. § 2X1.1, the base offense level is the base offense level for the substantive offense, *i.e.*, the commission of an act of terrorism transcending national boundaries. Pursuant to U.S.S.G. § 2X1.1(b)(2), a decrease by 3 levels is not warranted because the defendant or a co-conspirator completed all the acts the conspirators believed necessary on their part for the successful completion of the substantive offense.
12. The Guideline applicable to the substantive offense is U.S.S.G. § 2A1.1(a). Pursuant to U.S.S.G. § 2A1.1(a), the base offense level is 43.
13. Pursuant to U.S.S.G. § 3A1.4, because the offense is a felony that involved, or was intended to promote, a federal crime of terrorism, the offense level is increased by 12 levels.
14. In accordance with the above analysis, the applicable Guidelines offense level for Count Three is 55.
15. Accordingly, pursuant to U.S.S.G. § 3D1.3(a), the offense level applicable to the group is 55.
16. Assuming the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the imposition of sentence, a two-level reduction will be warranted, pursuant to § 3E1.1(a), U.S.S.G. Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional one-level reduction is warranted, pursuant to § 3E1.1(b), U.S.S.G, because the defendant gave timely notice of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines offense level is 52.

B. Criminal History Category

Pursuant to U.S.S.G. § 3A1.4, the defendant is in Criminal History Category VI.

C. Sentencing Range

Based upon the calculations set forth above, the applicable Guidelines range is life imprisonment. However, because the total statutory maximum sentence permitted by the charges in Counts One through Three is twenty-five years' imprisonment, the applicable Guidelines sentence is 300 months (the "Stipulated Guidelines Sentence"). In addition, after determining the defendant's ability to pay, the Court may impose a fine pursuant to U.S.S.G. § 5E1.2. At Guidelines level 52, the applicable fine range is \$25,000 to \$250,000.

The parties agree that neither a downward nor an upward departure from the Stipulated Guidelines Sentence set forth above is warranted. Accordingly, neither party will seek any departure or adjustment pursuant to the Guidelines that is not set forth herein. Nor will either party suggest that the Probation Office consider such a departure or adjustment under the Guidelines, or suggest that the Court *sua sponte* consider any such departure or adjustment.

The parties agree that either party may seek a sentence outside of the Stipulated Guidelines Sentence, suggest that the Probation Office consider a sentence outside of the Stipulated Guidelines Sentence, and suggest that the Court *sua sponte* consider a sentence outside of the Stipulated Guidelines Sentence, based upon the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a).

Except as provided in any written Proffer Agreement(s) that may have been entered into between this Office and the defendant, nothing in this Agreement limits the right of the parties (i) to present to the Probation Office or the Court any facts relevant to sentencing; (ii) to make any arguments regarding the Stipulated Guidelines Sentence (or where within such other range as the Court may determine the defendant should be sentenced) and regarding the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a); (iii) to seek an appropriately adjusted Guidelines range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above; and (iv) to seek an appropriately adjusted Guidelines range if it is subsequently determined that the defendant qualifies as a career offender under U.S.S.G. § 4B1.1. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, *see* U.S.S.G. § 3E1.1, regardless of any stipulation set forth above, if the defendant fails clearly to demonstrate acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the imposition of sentence. Similarly, nothing in this Agreement limits the right of the Government to seek an enhancement for obstruction of justice, *see* U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should it be determined that the defendant has either (i) engaged in conduct, unknown to the

Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

It is understood that pursuant to U.S.S.G. § 6B1.4(d), neither the Probation Office nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Office or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Sentence, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is further understood that the Guidelines are not binding on the Court. The defendant acknowledges that his entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Guidelines sentence set forth above.

It is agreed (i) that the defendant will not file a direct appeal; nor bring a collateral challenge, including but not limited to an application under Title 28, United States Code, Section 2255 and/or Section 2241; nor seek a sentence modification pursuant to Title 18, United States Code, Section 3582(c), of any sentence at or below the Stipulated Guidelines Sentence of 300 months' imprisonment, and (ii) that the Government will not appeal any sentence at the Stipulated Guidelines Sentence. This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation. The parties agree that this waiver applies regardless of whether the term of imprisonment is imposed to run consecutively to or concurrently with the undischarged portion of any other sentence of imprisonment that has been imposed on the defendant at the time of sentencing in this case. The defendant further agrees not to appeal any term of supervised release that is less than or equal to the statutory maximum. The defendant also agrees not to appeal any fine that is less than or equal to \$250,000, and the Government agrees not to appeal any fine that is greater than or equal to \$25,000.

The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. The defendant admits that the facts set forth below and in Exhibit A are true, and were this case to go to trial, the United States would be able to prove these specific facts and others beyond a reasonable doubt. Further, the defendant agrees to allocute at the guilty plea proceeding to the facts set forth below and in Exhibit A.

From the Spring of 2011 through the Fall of 2011, Manssor Arbabsiar and his co-conspirators, officials in the Iranian military who were based in Iran (the "co-conspirators"), agreed to cause the assassination of the Ambassador of Saudi Arabia to the United States (the "Ambassador"), while the Ambassador was in the United States.

Acting at the direction of his co-conspirators and in furtherance of this agreement, Arbabsiar traveled internationally to Mexico on several occasions, including from Iran, in order to arrange the assassination of the Ambassador. These trips occurred in May, June, July and September of 2011. In Mexico, Arbabsiar met with a person ("the Individual") who claimed to be a representative of a sophisticated and violent Latin American drug cartel that had access to military-grade weaponry. With the approval of Arbabsiar's co-conspirators, Arbabsiar arranged to hire the Individual and his criminal associates to murder the Ambassador, while the Ambassador was in the United States. Arbabsiar agreed to pay \$1.5 million to the Individual.

Arbabsiar discussed with the Individual a plan for the Individual and his criminal associates to travel to Washington, D.C. to murder the Ambassador at a restaurant there. The plan was subsequently approved by Arbabsiar's co-conspirators.

Arbabsiar then arranged for a \$100,000 payment, in two installments, to be wired to the Individual at a U.S. bank account, as a down-payment for the anticipated murder of the Ambassador. Arbabsiar's co-conspirators approved this payment, which was made via wire transfers to a U.S. bank account that passed through Manhattan, New York.

By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to *Giglio v. United States*, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

It is further agreed that should the conviction following the defendant's plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this

Sabrina Shroff
October 16, 2012
Page 8

Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Sabrina Shroff
October 16, 2012
Page 9

Apart from any written Proffer Agreement that may have been entered into between this Office and defendant, this Agreement supersedes any prior understandings, promises, or conditions between this Office and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

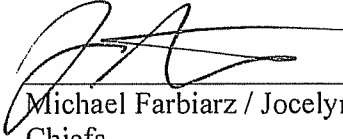
Very truly yours,

PREET BHARARA
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
AGREED AND CONSENTED TO:


Manssor Arbabsiar

10 / 17 / 12

Date

APPROVED:


Sabrina Shroff, Esq.
Attorney for Manssor Arbabsiar

10 / 17 / 12

Date

Exhibit A

From the Spring of 2011 through the Fall of 2011, Manssor Arbabsiar and his co-conspirators, officials in the Iranian military who were based in Iran (the "co-conspirators"), agreed to cause the assassination of the Ambassador of Saudi Arabia to the United States (the "Ambassador"), while the Ambassador was in the United States.

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